

REMARKS

The Office Action dated June 15, 2005 has been carefully reviewed. Claims 1-29 and 31-34 were rejected in the 6/15/05 Office Action. Reconsideration of the rejected claims in light of the remarks presented herein is respectfully requested.

**35 U.S.C. § 102(b) Rejections - Iken**

Claims 14 and 18 were rejected under 35 U.S.C. §102(b) over U.S. Patent No. 3,488,700 issued to Iken et al. (hereinafter "Iken"). Applicants respectfully traverse the rejection. Reconsideration of claims 14 and 18 is respectfully requested.

On page 2 of the 6/15/05 Office Action, the Examiner asserted:

Additional combustion air 7 is introduced (at 9) into the kiln between the upper and lower ends of the kiln for complete combustion or excess air combustion or super-stoichiometric [sic, super-stoichiometric] combustion same as the applicant's.

Applicants respectfully traverse this rejection. Specifically, contrary to the Examiner's assertion that all of the elements are disclosed in Iken, a second quantity of combustion air is not introduced into the rotary kiln 1 of Iken at a location between its lower end and its upper end. Indeed, as shown in FIG. 1 of Iken, both nozzles 6 and 7 of the air lance 5 are located outside of the lower end of the rotary vessel 1. Note that the rotary vessel 1 is not shown in the diagrammatic views of FIGS. 2-4, with reference numeral 3 being used to designate the material being processed by the kiln 1. In other words, all combustion air (including the oxygen stream 9 identified by the Examiner) enters the rotary kiln 1 through its lower end, with no portion thereof entering the kiln 1 at a location between the lower end of the rotary kiln and its upper end.

Also contrary to the Examiner's assertion that all of the elements are disclosed in Iken, Iken does not disclose creating super-stoichiometric conditions in a mid-portion of the rotary vessel. Iken is silent as to the air/fuel ratio (or O/C ratio) of the final mixture. In other words, the addition of the second stream 9 only indicates that final mixture has become leaner. However, nowhere does Iken indicate that the final mixture has become super-stoichiometric. Perhaps

introduction of the first stream 8 creates an intermediate sub-stoichiometric mixture, with the subsequent introduction of the stream 9 creating a final mixture that is still sub-stoichiometric, albeit leaner. Perhaps the resultant final mixture is stoichiometric. Iken is silent on this point, and it cannot be speculated in the formation of a proper anticipation rejection.

As such, the rejection of claims 14 and 18 is not supported by the art and should be withdrawn.

### **35 U.S.C. § 102(b) Rejections - Brandvold**

Claims 19, 21, 23-28, and 31-33 were rejected under 35 U.S.C. §102(b) over U.S. Patent No. 3,584,850 issued to Brandvold (hereinafter "Brandvold"). Applicants respectfully traverse the rejection. Reconsideration of claims 19, 21, 23-28, and 31-33 is respectfully requested.

#### **Discussion Re: Claims 19, 21, and 23-28**

On page 2 of the 6/15/05 Office Action, the Examiner asserted:

An air inlet opening 24e is located between two ends. A preheater or precalcining assembly 38, 40 (incoming mineral passes inlet chute 20d and is directly preheated by the exiting hot flue gas 44 in vessel 38) is positioned proximate to the upper end 18. The preheating or precalcining assembly has a stationary vessel 38, 40 through which the mineral passes prior to advancement into the rotary vessel. The kiln existing hot flue gas stream passes in contact with the mineral subsequent to advancement out of the vessel. A stationary hood 14k is positioned proximate to the combustion air inlet lower end 14b and a burner 16a is proximate to the combustion air inlet lower end 14b.

Applicants respectfully traverse this rejection. Applicants note that the Examiner has now changed his characterization of Brandvold from previous Office Actions. Previously, the Examiner asserted that the "vessel 22a" of the conventional long kiln of FIGS. 1-4 of Brandvold could somehow be construed as a "preheating/precalcining assembly". The Examiner reasoned that "incoming mineral passes inlet chute 20d and is indirectly preheated by the exiting hot flue gas 28 in vessel 22a". In response, Applicants argued that such an interpretation was improper since neither the specification of the present application, nor its common usage in the art, would lead one skilled in the art to believe that the term "preheating/precalcining assembly" means the feed tube 20d of the

long kiln of FIGS. 1-4 of Brandvold and the supposed indirect preheating of the mineral therein by the flue gas in the backhouse 22.

However, now the Examiner appears to be looking to the preheating/ precalcining kiln of FIG. 5 of Brandvold in the present office action (i.e., the 6/15/05 Office Action) when the Examiner calls out a “preheater or precalcining assembly 38, 40”. *The problem is, the preheating/ precalcining kiln of FIG. 5 of Brandvold does not have air inlet opening 24e, only the conventional long kiln of FIGS. 1-4 has such an opening. In other words, while it is noted with appreciation that the Examiner is now acknowledging the difference between a conventional long kiln and a preheating/ precalcining kiln, it appears that the Examiner is now picking and choosing between the long kiln and the preheating/ precalcining kiln of Brandvold in an effort to find all of the elements necessary to support the Examiner’s rejection.* In particular, the long kiln of FIGS. 1-4 doesn’t include a “preheater or precalcining assembly 38, 40” (which is no surprise since it wouldn’t by definition). On the other hand, the preheating/ precalcining kiln of FIG. 5 of Brandvold does not have an air inlet opening 24e positioned between the upper end and lower end of the rotary vessel. The fact that it doesn’t is likewise no surprise since the absence of such a preheating/ precalcining kiln in the prior art of record is the very point the Applicants have been making in their previous responses.

Such picking and choosing between the two different types of kilns is improper. “When a claimed invention is not identically disclosed in a reference, and instead requires picking and choosing among a number of different options disclosed by the reference, the reference does not anticipate.” *Mendenhall v. Astec Industries, Inc.*, 13 U.S.P.Q.2d 1913, 1928 (Tenn. 1988), *aff’d* 13 U.S.P.Q.2d 1956 (Fed Cir. 1989). Since neither of the kilns disclosed in Brandvold teach each of the limitations of the claims 19, 21, and 23-28, the present rejection is not supported by the art and should be withdrawn.

Discussion Re: Claims 31-33

On page 3 of the 6/15/05 Office Action, the Examiner asserted:

For claim 31, a mineral feed assembly 22a is operable to heat lime mineral and thereafter advance the lime mineral into the upper end of the rotary vessel 18. It is noted that the incoming mineral passes inlet chute 20d and is indirectly heated by the exiting hot flue gas 28 in vessel 22a.

Applicants respectfully traverse this rejection. Specifically, contrary to the Examiner's assertion that all of the elements are disclosed in Brandvold, a feed assembly that is operable to "heat lime mineral *by contact with a kiln gas stream advancing therethrough*" is not. To the contrary, by the Examiner's own admission, the long kiln of Brandvold is different since "mineral passes through the inlet chute 20d and is *indirectly heated* by the exiting hot flue gas 28 in vessel 22a." Emphasis added. As such, the rejection of claims 31-33 is not supported by the art and should be withdrawn.

#### **35 U.S.C. § 103 Rejections – Iken/Brandvold**

Claims 1-13, 15-17, and 19-25 were rejected under 35 U.S.C. §103 over Iken in view of Brandvold. Applicants respectfully traverse the rejection. Reconsideration of claims 1-13, 15-17, and 19-25 is respectfully requested.

#### **Discussion Re: Claims 1-13 and 19-25**

The Examiner has not put forth a legally sufficient teaching, motivation, or suggestion in support of the proposed combination of Iken and Brandvold. As described in more detail in previous responses, and not repeated for purposes of brevity herein, the Federal Circuit has long since maintained a necessity of finding some teaching or motivation to combine the references *in the prior art*, such as the references themselves, and not based on applicant's disclosure. The initial burden is on the examiner to provide some suggestion of the desirability of doing what the inventor has done.

In an apparent attempt to establish a case of obviousness in the present case, the Examiner stated that it would have been obvious to modify "the rotary kiln 1 of Iken with a secondary combustion air or excessive combustion air supply on the wall of the kiln 1 between two

kiln ends as taught by Brandvold in order to provide a more direct supply of excessive combustion air." However, this conclusory statement is completely devoid of any legally sufficient teaching, motivation, or suggestion to combine the teachings of Iken and Brandvold in such a manner. Such an unsupported, conclusory statement offered by the Examiner is not a legally sufficient substitution for the factual analysis required by the Federal Circuit. The Examiner has failed to point to any section of Iken, Brandvold, or any other art of record wherein such teaching, motivation, or suggestion is provided.

Furthermore, not only has the Examiner not offered a legally sufficient teaching, motivation, or suggestion to combine the mineral kilns of Iken and Brandvold, it is believed that no such motivation exists. First of all, even if, for arguments sake, one of ordinary skill in the art had the general desire to "provide a more direct supply of excessive combustion air" to Iken's kiln, the Examiner has failed to point to any teaching, motivation, or suggestion as to how such a general desire would lead to the specific combination of the air system of Brandvold with Iken's kiln. In fact, Iken teaches that "in the inventive process the flame can be formed in an advantageous manner entirely as desired. By variation of the amount of oxygen in the individual nozzles, by changing the oxygen blowing angle to the bulk material, and the oxygen discharge speed, the flame can be controlled as desired." (Iken, col. 2, lns. 24-29) No one armed with the general motivation to "provide a more direct supply of excessive combustion air" would go through the enormous time and expense of the extensive modifications that would be required to the kiln designs of Iken to equip them with the complex air introduction system 24 of Brandvold since the capability of forming any desired flame are already provided by the Iken system by use of much simpler means (e.g., "[b]y variation of the amount of oxygen in the individual nozzles, by changing the oxygen blowing angle to the bulk material, and the oxygen discharge speed").

Furthermore, no one skilled in the art would modify the kiln of Iken to include the air introduction system 24 of Brandvold *since Brandvold's system is a cooling system*. Both the CCPA and the Federal Circuit have consistently held that when an obviousness rejection is based upon a combination or modification of a reference that destroys the intent, purpose, or function of the

invention disclosed in the reference, such a proposed combination or modification is not proper and a *prima facie* case of obviousness cannot be made (see, e.g., *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984)). In this case, Iken introduces secondary air into the kiln for the purposes of *heating* such air by contact with the hot mineral in the kiln ("...the now hotter and thus also more tenacious oxygen stream is well suited for flame formation..." see Iken col. 3, lns 4-20). As pointed out in a previous response, *cooling air* is admitted into the drying zone of the kiln of Brandvold through the tuyeres 24e (see, e.g., column 6, lines 64-75). *No one skilled in the art would introduce cooling air into the kiln of Iken to supplement the already present split secondary air supply since the very purpose of the existing secondary air supply of Iken is to heat the secondary air, not cool it.* To cool it would destroy its intended function.

Because the Examiner has offered only a conclusory, unsupported statement as the legally required teaching, motivation, and suggestion to combine Iken and Brandvold, and in light of the overwhelming reasons against such a combination, it appears that the Examiner is using the Applicant's application as a roadmap in developing his rejection. That is, the Examiner appears to be using hindsight reconstruction as a substitute for a factual basis for the rejection of the claims under 35 U.S.C. § 103. Such use of hindsight reconstruction is not proper. "There must be a reason apparent at the time the invention was made to a person of ordinary skill in the art for applying the teaching at hand, or the use of the teaching as evidence of obviousness will entail prohibited hindsight." *In re Nomiya, Kohisa, and Matsumura*, 509 F.2d 566, 184 USPQ 607 (CCPA 1975). "The Patent Office has the initial duty of supplying a factually basis for a rejection under 35 U.S.C. § 103. It may not, because it may doubt that the invention is patentable, resort to speculation, unfounded assumptions or hindsight reconstruction to supply deficiencies in its factual basis." *In re Rice*, 481 F.2d 1316, 178 USPQ 478, 479 (CCPA 1973).

Even if, for arguments sake, that the Examiner had offered a legally sufficient teaching, motivation, or suggestion to combine Iken and Brandvold, such a combination would not arrive at the invention of claims 1-13. For example, as pointed out in regard to the § 102 rejections over Iken, both air/oxygen streams 8 and 9 of Iken are introduced through the lower end of the rotary

kiln 1. Iken is silent as to the air/fuel ratio (or O/C ratio) of the resultant final mixture (i.e., the mixture after both of the streams 8 and 9 have been introduced into the flame). In regard to claims 1 and 7, for example, it cannot be speculated that the air/fuel ratio (or O/C ratio) of the resultant final mixture is sub-stoichiometric. The resultant final mixture may be stoichiometric or it may be super-stoichiometric. Speculation is not proper in forming a rejection under § 103. In regard to claims 2 and 9, for example, Iken does not disclose creating super-stoichiometric conditions in the kiln, and neither does Brandvold.

Similarly, the proposed combination would not arrive at the invention of claims 19-25. Iken does not disclose a preheater/ precalciner assembly. Incorporating the air inlet opening 24e from Brandvold's long kiln, as proposed by the Examiner, would not cure such a deficiency.

#### Discussion Re: Claims 15-17

Claims 15-17 depend from claim 14. The rejection of claims 15-17 should be withdrawn for at least the reasons herein discussed in regard to claim 14.

#### **35 U.S.C. § 103 Rejections – Tutt/Herchenbach**

Claims 19, 21-28, and 31-33 were rejected under 35 U.S.C. §103 over U.S. Patent No. 5,375,535 issued to Tutt (hereinafter "Tutt") in view of U.S. Patent No. 4,329,180 issued to Herchenbach et al. (hereinafter "Herchenbach"). Applicants respectfully traverse the rejection. Reconsideration of claims 19, 21-28, and 31-33 is respectfully requested.

The Examiner has not put forth a legally sufficient teaching, motivation, or suggestion in support of the proposed combination of Iken and Brandvold. In an apparent attempt to establish a case of obviousness in the present case, the Examiner stated that it would have been obvious to modify the conventional long kiln of Tutt with the preheating/ precalcining assembly of Herchenbach "in order to obtain a more efficient waste heat recovery". This conclusory statement is completely devoid of any legally sufficient teaching, motivation, or suggestion to combine the teachings of Tutt and Herchenbach in such a manner. Such an unsupported, conclusory statement is

not a legally sufficient substitution for the factual analysis required by the Federal Circuit. The Examiner has failed to point to any section of Tutt, Herchenbach, or any other art of record wherein such teaching, motivation, or suggestion is provided.

Furthermore, not only has the Examiner not offered a legally sufficient teaching, motivation, or suggestion to combine the mineral kilns of Tutt and Herchenbach, it is believed that no such motivation exists. First of all, even if, for arguments sake, one of ordinary skill in the art had the general desire "to obtain a more efficient waste heat recovery" in regard to Tutt's kiln, the Examiner has failed to point to any teaching, motivation, or suggestion as to how such a general desire would lead to the specific combination of adding the preheating/precalcining assembly of Herchenbach with Tutt's conventional long kiln. This simply makes no sense. The combination is, in effect, a conventional long kiln with a preheater/precalciner assembly. Applicants argue that no one skilled in the art would make such a combination since the Tutt kiln has a fully functioning drying/preheat zone 24 and a calcining zone 26 *already built into the rotary vessel*. One skilled in the art would not go to the enormous effort and significant expense to install a preheating/precalcining system, such as the one proposed from Herchenbach, since to do so would create an expensive, redundant system. The system would be one in which the meal would be heated and calcined by the preheating/precalcining assembly, introduced into the rotary vessel where it would again be heated and then again calcined, and thereafter advanced into the clinker zone. One skilled in the art simply wouldn't do this.

Furthermore, no one skilled in the art would modify the long kiln of Tutt to include a preheater or precalciner assembly *since the whole purpose of bypass systems, such as those taught in Tutt, is to allow operators of long kilns to be more economically competitive with operators of preheater/precalciner kilns*. (see Tutt, col. 2, ln. 42 through col. 3 line 12). In essence, the bypass system of Tutt is a retrofit to enhance the competitiveness of conventional long kilns versus preheater/precalciner kilns thereby allowing an operator to continue operating the conventional long kiln thereby avoiding the enormous cost of a replacement preheater/precalciner kiln. To install a preheating/precalcining assembly on the long kiln of Tutt, as proposed by the Examiner, would

completely destroy the intent and purpose of the bypass system of Tutt. In other words, there would be no purpose to the bypass system of Tutt if the kiln was modified to add the very thing its use is trying to avoid – a preheating/precalcining assembly. When an obviousness rejection is based upon a combination or modification of a reference that destroys the intent, purpose, or function of the invention disclosed in the reference, such a proposed combination or modification is not proper and a *prima facie* case of obviousness cannot be made.

Because the Examiner has offered only a conclusory, unsupported statement as the legally required teaching, motivation, and suggestion to combine Tutt and Herchenbach, and in light of the overwhelming reasons against such a combination, it appears that the Examiner is using the Applicant's application as a roadmap in developing his rejection. That is, the Examiner appears to be using hindsight reconstruction as a substitute for a factual basis for the rejection of the claims under 35 U.S.C. § 103. Such use of hindsight reconstruction is not proper.

Even if, for arguments sake, that the Examiner had offered a legally sufficient teaching, motivation, or suggestion to combine Tutt and Herchenbach, such a combination would not arrive at the invention of claims 19, 21-28, and 31-33. Firstly, the "air inlet opening" of Tutt identified by the Examiner (i.e., the undefined combination of elements 56-60) is a kiln bypass system which *withdraws* a portion of the kiln gas stream from the rotary vessel. The "air" supplied to such a system is the quench air that is used to cool the withdrawn kiln gas (see arrows 134 in FIG. 3). *Note that the quench air does not flow into the main body of the rotary vessel.* Such quench air could not be properly characterized as combustion air. Moreover, such an arrangement could not be properly characterized as an "air inlet opening" of the rotary vessel since the air is not introduced into the rotary vessel, but rather only mixed with the kiln gas being withdrawn from the kiln.

#### 35 U.S.C. § 103 Rejections – Brandvold/Baukel

Claims 1-18, 20, 22, 29, and 34 were rejected under 35 U.S.C. §103 over Brandvold in view of U.S. Patent No. 3,584,850 issued to Baukel, Jr., et al (hereinafter "Baukal"). Applicants

respectfully traverse the rejection. Reconsideration of claims 1-18, 20, 22, 29, and 34 is respectfully requested.

The Examiner has not put forth a legally sufficient teaching, motivation, or suggestion in support of the proposed combination of Brandvold and Baukel. In an apparent attempt to establish a case of obviousness in the present case, the Examiner stated that it would have been obvious to "operate the kiln of Brandvold with the combustion rate at sub-stoichiometric ratio at the lower end and super-stoichiometric at the upper end as taught by Baukel in order to obtain a complete combustion for clean air exhaust." Again, in lieu of a reasoned analysis that satisfies the legal relevant standards, the Examiner has merely floated out a conclusory statement that is completely devoid of any legally sufficient teaching, motivation, or suggestion to combine the teachings of Brandvold and Baukel in such a manner. Such an unsupported, conclusory statement is not a legally sufficient substitution for the factual analysis required by the Federal Circuit. The Examiner has failed to point to any section of Brandvold, Baukel, or any other art of record wherein such teaching, motivation, or suggestion is provided.

Furthermore, not only has the Examiner not offered a legally sufficient teaching, motivation, or suggestion to combine the teachings of Brandvold and Baukel, it is believed that no such motivation exists. First of all, even if, for arguments sake, one of ordinary skill in the art had the general desire "to obtain a complete combustion for clean air exhaust" in regard to Brandvold's kiln, the Examiner has failed to point to any teaching, motivation, or suggestion as to how such a general desire would lead to the specific combination of the combustion process of Baukel with Brandvold's kiln. This is true for a number of reasons. *Most importantly, as discussed in detail throughout Baukel, the combustion system of Baukel will not function in the kiln of Brandvold as purported by the Examiner. Indeed, the secondary oxygen of Baukel must be introduced into the flame NOT at some location tens, if not hundreds, of feet away as proposed by the Examiner.* (see, e.g., Baukel at col. 4, lns 36-46 "The location of oxygen introduction into the flame is critical, and test furnace experiments later described showed that the oxygen must be introduced directly into the visible flame at a distance x, where x is measured from the burner discharge point in an axial

direction, such that  $x/L$  is at least about 0.3,  $L$  being the total length of the visible flame produced by the burner as measured from the burner discharge point to the tip of the flame. The upper limit of  $x/L$  is about 0.8, beyond which  $\text{NO}_x$  formation begins to increase above that of conventional air-based burners.” Emphasis added.) As pointed out at col. 1, lns. 8-13 of Brandvold, the nominal size of a rotary kiln is *450 feet*, with the air inlet 24e being located on the other end of the kiln from the flame. In other words, air introduced through the air inlet 24e of Brandvold’s kiln is in no way being directed into the visible flame of the kiln’s burner. Baukel’s flame system will not function in such conditions. As such, no one skilled in the art would be motivated to make such a combination since it would simply wouldn’t work. To do so would destroy the whole intent, purpose, and function of the Baukel’s system. As established above, when an obviousness rejection is based upon a combination or modification of a reference that destroys the intent, purpose, or function of the invention disclosed in the reference, such a proposed combination or modification is not proper and a *prima facie* case of obviousness cannot be made.

Because the Examiner has offered only a conclusory, unsupported statement as the legally required teaching, motivation, and suggestion to combine Brandvold and Baukal, and in light of the overwhelming reason against such a combination, it appears that the Examiner is again using the Applicant’s application as a roadmap in developing his rejection. That is, the Examiner appears to be using hindsight reconstruction as a substitute for a factual basis for the rejection of the claims under 35 U.S.C. § 103. Such use of hindsight reconstruction is not proper.

Even if, for arguments sake, that the Examiner had offered a legally sufficient teaching, motivation, or suggestion to combine Brandvold and Baukel, such a combination would not arrive at the invention of claims 1-18, 20, 22, 29, and 34. In the remarks relating to both the §102 and the §103 rejections involving Brandvold, Applicants have traversed the rejections based on Brandvold with a number of structural and process differences. Baukel does not cure such deficiencies. Moreover, in the formation of the §103 rejection based on Brandvold and Baukel, the Examiner has again resorted to the improper picking and choosing from the different kilns disclosed

in Brandvold. As a result of this, a *prima facie* case of obviousness has not been established since the combination does not arrive at the invention.

### 35 U.S.C. § 103 Rejections – Tutt/Baukel

Claims 1-29 and 31-34 were rejected under 35 U.S.C. §103(a) over Tutt in view of Baukel. Applicants respectfully traverse this rejection. Reconsideration of claims 1-29 and 31-34 is respectfully requested.

The discussion relating to the §103 rejections over Brandvold in view of Baukel is relevant to the §103 rejections over Tutt in view of Baukel. Specifically, the Examiner has provided no legally sufficient teaching, motivation, or suggestion to support the proposed combination of the teachings of Tutt and Baukel, but rather has offered only an unsupported, conclusory statement that has no identified basis in the prior art. Moreover, Applicants are of the belief that no teaching, motivation, or suggestion exists for the proposed combination since, like the combination of Brandvold and Baukel, the combustion system of Baukel simply will not function in the kiln of Tutt. First of all, Tutt does not introduce air into the kiln at the purported “air inlet opening” (i.e., the undefined combination of elements 56-60), it withdraws kiln gas. As such, there is no secondary air for use in the combustion system of Baukel, and certainly no secondary air that is directed into the visible flame of Baukel.

Moreover, the proposed combination of Tutt and Baukel does not arrive at the invention as purported by the Examiner. Again, the “air inlet opening” identified by the Examiner (i.e., the undefined combination of elements 56-60) is a kiln bypass system which withdraws a portion of the kiln gas stream from the rotary vessel. The “air” supplied to such a system is the quench air that is used to cool the withdrawn kiln gas (see arrows 134 in FIG. 3). Note that the quench air does not flow into the main body of the rotary vessel. Such quench air could not be properly characterized as combustion air. Moreover, such an arrangement could not be properly characterized as an “air inlet opening” of the rotary vessel since the air is not introduced into the rotary vessel, but rather only mixed with the kiln gas being withdrawn from the kiln.

Since Tutt and Baukel have not been applied in a manner to create a *prima facie* case of obvious, the rejection cannot be maintained and should be withdrawn.

#### **Double Patenting Rejections**

Claims 1-29 and 31-34 were rejected under the judicially created doctrine of obviousness-type double patenting. Applicants respectfully traverse this rejection. It appears that the Examiner is basing this rejection on the assertion that the claims of the issued patent "cover" the claims 1-29 and 31-34. It does not appear that the proper standard has been applied. From a review of MPEP 804, the standard does not appear to be whether the patented claims "cover" the pending claims (to the extent it is understood what "cover" is intended to mean), but rather an issue of whether the pending claims "define an invention that is merely an obvious variation of an invention claimed in the patent." It appears that the 6/15/05 Office Action is devoid of such an analysis.

If the Examiner maintains this rejection in light of the above remarks, and such a rejection is the only remaining rejection, Applicants request the courtesy of a telephone call to the undersigned attorney so that the nature of the rejection can be better understood and consideration given to the filing of a terminal disclaimer to expedite prosecution.

#### **Conclusion**

In view of the foregoing remarks, it is submitted that this application is in a condition for allowance. Action to that end is hereby solicited.

It is respectfully requested that, if necessary to effect a timely response, this paper be considered as a Petition for an Extension of Time sufficient to effect a timely response and shortages in other fees be charged, or any overpayment in fees be credited, to the Account of Barnes & Thornburg, Deposit Account No. 10-0435 with reference to file 204560-73806.

Respectfully submitted,  
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